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Mr. James F. Sanft*
Concordia Plan Services
1333 S. Kirkwood Road
St. Louis, MO 63122
(314) 885-6701

Secretary:

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Concordia Plan Services

Treasurer:

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United Methodist Church

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Rev. Jeffrey Thiemann*
Evangelical Lutheran Church in America
800 Marquette Ave., Suite 1050
Minneapolis, MN 55402
(612) 752-4051

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* Steering Committee Members

CHURCH ALLIANCE

Acting on Behalf of Church Benefits Programs

Counsel:

K&L Gates LLP
1601 K Street NW
Washington D.C. 20006
Tel (202) 778-9000
Fax (202) 778-9100

February 20, 2019

The Honorable Richard Neal

Chairman

House Committee on Ways and Means

1102 Longworth House Office Building

Washington, DC 20515

The Honorable Kevin Brady

Ranking Member

House Committee on Ways and Means

1139E Longworth House Office Building

Washington, DC 20515

Dear Chairman Neal and Ranking Member Brady:

The Church Alliance is pleased to submit the following statement for the record in response to the House Committee on Ways and Means' February 6, 2019 hearing on *Improving Retirement Security for America's Workers*. As you know, churches, synagogues, and other religious organizations are at the heart of communities across our nation. We appreciate the Committee's commitment to ensuring all Americans, including clergy, lay workers, and their families, are prepared for a financially secure retirement and look forward to continuing the discussion on retirement reform in the 116th Congress.

ABOUT THE CHURCH ALLIANCE AND CHURCH BENEFIT PLANS

The Church Alliance is a coalition of chief executive officers of thirty-seven (37) denominational benefit programs covering mainline and evangelical Protestant, Catholic, and Jewish faith traditions. Church Alliance members provide employee benefits to approximately one million clergy (including ministers, priests, rabbis, and other spiritual leaders), lay workers, and their family members, serving over 155,000 churches, synagogues, and affiliated organizations.

By way of background, denominational benefit plans are typically maintained by a separately incorporated church benefit organization (often called a pension board or benefit board) designated as the entity that sponsors or administers and maintains the benefit programs for eligible employees within the denomination. These benefit plans are generally multiple-employer in nature and cover thousands of church and synagogue employers throughout the country, many of which are located in rural communities. These programs often also cover foreign mission organizations and their missionaries. Church benefit organizations thus typically provide retirement and welfare benefits to thousands (or, in the case of the larger denominations, tens of thousands) of clergy and lay workers at multiple locations. Retirement benefits may be provided through a defined contribution (typically 403(b)(9)) plan, a defined benefit plan or both. Having a centralized program sponsored by one organization serving multiple church employers helps ensure continuity and consistency of employee benefits for the many clergy who move from one church or church-related organization to another to fulfill the ministry of a denomination.

Many of the participating employers covered under these church benefit plans are small, local churches with few employees. Oftentimes, the local church's pastor may

be that church's only employee. If there are other employees, they are often part-time workers who assist with secretarial or bookkeeping duties or perhaps provide for building maintenance. In addition, many small local churches are staffed by bi-vocational pastors (clergy who work for a secular employer part-time or full-time and pastor a church or churches on the side). Denominational plans also provide benefits to self-employed clergy.

In addition to serving local churches and synagogues, denominational benefit plans cover other church-related organizations that historically have been viewed by denominations as an extension of the ministry and are considered to be within the bounds of the particular denomination with which they are affiliated. For example, participating employers can include church-related nursing homes, daycare centers, summer camps, preschools, colleges, universities, hospitals, and other social service organizations. All of these organizations typically are considered as fulfilling the ministry and mission of the church.

Local churches are typically run by volunteer trustees, vestries, boards of directors, boards of deacons, boards of elders, parish councils, or the like. The individuals who hold these volunteer leadership roles are focused on fulfillment of their church's ministry and have the burden of allocating both human and monetary resources to direct ministry, which leaves them with little time to focus on employee benefit compliance issues. In the case of small to medium-sized churches and synagogues, these individuals may, and usually do, lack the expertise required to understand the various employee benefit legal requirements that must be met. Except in the largest churches, the typical church budget does not support the hiring of outside experts required to assist the local church with employee benefits compliance. As a result, absent the availability of the programs provided through church benefit organizations and church associations, many of these employers would be unable to provide adequate retirement or welfare benefits to their employees.

The benefits provided by church benefit organizations or church associations may be mandated by the denominational polity (the operational and governance structure of a denomination). Over the years, church denominations have organized themselves in a variety of ways reflecting their own theological beliefs. Some denominations are organized in a "hierarchical" polity, in which a "parent" church organization sets the policy for the entire denomination. Other denominations have organized themselves in a diocesan, synodical or presbyterian structure under which policy-making is carried out on a local or regional level, through representatives drawn from the various churches within the geographic area served by a particular level of governance. Several other denominations, composed of autonomous churches and synagogues, or conventions or associations of churches, cooperate in a "congregational" form of governance in which churches and church ministry organizations are associated by voluntary and cooperative participation.

It is these diverse sets of church polities, and the differing levels of control exercised over churches and church ministry organizations under a particular polity, that present difficulties with employee benefit requirements of the tax code, ERISA, and other laws, most of which were designed with a for-profit, corporate structure in mind. Together with the Constitutional proscription against excessive government entanglement with religion, these considerations have led to the development of a legal framework for church plans that reflects their unique characteristics.

CLARIFICATION FOR § 403(b)(9) PLANS

Clarification of the rules governing church retirement plans is urgently needed to reaffirm current law dating to 1980, and more than 30 years of administrative practice, to ensure that all church-affiliated organizations can participate in a church § 403(b)(9) plan. Throughout their history, the advantages of church retirement plans have been open to church clergy and lay workers serving individual churches, as well those of affiliated organizations that

advance the mission of the denomination, such as children's homes, daycare centers, summer camps, nursing homes, retirement centers, preschools, colleges and universities, and other religious nonprofit entities.

The broad availability of these plans is now under threat by a recent IRS and Treasury position that departs from longstanding precedent, and restricts the retirement plan options available to employees of certain religiously-affiliated organizations. Under this new position, employees of these organizations will no longer be able to participate in § 403(b)(9) plans. This creates significant issues for church retirement plans, but most importantly, for the beneficiaries they serve.

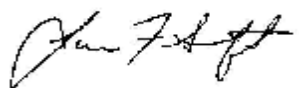
The IRS and Treasury position could mean that clergy and church lay workers lose access to important § 403(b)(9) features, such as access to socially screened investment options that reflect a particular denomination's faith and beliefs, as well as to annuitization choices that can be provided directly by the church benefit program. Moreover, this approach would inevitably lead to higher costs with fewer § 403(b)(9) plan participants over which to spread plan expenses.

Recognizing these implications, bipartisan, broadly supported legislation was introduced in the House and Senate (H.R. 2341/S. 674) last Congress to clarify the appropriate and intended broad availability of § 403(b)(9) plans. The clarification was also included last Congress in the Retirement Enhancement and Savings Act (S. 2526/H.R. 5282), the Family Savings Act (H.R. 6757), and Ranking Member Brady's amendment to H.R. 88. We are pleased to see that Reps. Ron Kind and Mike Kelly have reintroduced the Retirement Enhancement and Savings Act (H.R. 1007) in the 116th Congress, and that the language once again includes this clarification. We strongly urge enactment of this clarification at the earliest possible opportunity, either independently or as part of a moving vehicle. Urgent resolution of this issue is critical to the retirement security of clergy and church lay workers across the nation.

CONCLUSION

In closing, the Church Alliance greatly appreciates the opportunity to submit these comments. We are pleased to serve as a resource to the Congress and the Committee on these and related matters. We look forward to our continued work together on retirement reform. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Sanft", with a stylized flourish at the end.

James F. Sanft
Chair of the Church Alliance